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25 the four?

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400

(Liu - Direct - Dero'Hannesian)

1 A I'm sorry?

2 Q Is one more important than the other or
3 are you just listing the four?

4 A They are all important.

5 Q Let's talk about the first. What is voter
6 eligibility?

7 A The voters who are eligible to vote.

8 Q Are all individuals who are over 18
9 eligible to vote?

10 A Not necessarily.

11 Q Why not?

12 A Some voters -- I'm sorry, some people who
13 are older than 18 years old may be immigrants or
14 they are not naturalized and some of them may lose
15 their right to vote due to some law, state or local.
16 So some of them may not be eligible to vote.

17 Q So that might include convicted felons?

18 A Yes.

19 Q It might include illegal immigrants?

20 A Yes.

21 Q Now, is that the type of data that you as
22 a statistician can readily find available?

23 A No.

24 Q Is it something to consider in the
25 creation of an effected majority district?

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(Liu - Direct - Dero'Hannesian)

1 A Yes.

2 Q when you talked about registration data;
3 is that correct?

4 A Yes.

5 Q By that you mean what?

6 A I mean we should take consideration of the
7 level of registration for racial groups. History
8 has shown that different racial groups are
9 registered at a different level.

10 Q And what does that show?

11 A I do not have the data about Albany, New
12 York so I do not know.

13 Q In general do whites and blacks register
14 at the same level?

15 A No.

16 Q Would it be important to consider whether
17 or not in a particular district there are issues of
18 voter interest to the minority voters?

19 A Yes.

20 Q You mentioned number three was voter
21 turnout?

22 A Yeah.

23 Q You have discussed your analysis of that
24 in Albany County; correct?

25 A Yes.

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(Liu - Direct - Dero'Hannesian)

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1 Q That would be one factor to consider;
2 correct?

3 A Yes.

4 Q Then the fourth factor was racially
5 polarized voting and you have discussed for us today
6 your analysis of that in Albany County; correct?

7 A Yes.

8 Q Areas three and four are those areas which
9 you are particularly well-suited as a political
10 scientist to address; correct?

11 A Yes.

12 Q Are there other factors to consider in the
13 creation of effective majority districts that you
14 don't consider because they are outside your
15 professional field of expertise but are relevant
16 factors to consider?

17 A Yes.

18 Q What are some of those?

19 A Factors that are related to community
20 interests, for example, and the shape of maps which
21 I am not an expert on.

22 Q So when you say community and community
23 interests, what do you mean by that?

24 A Newly created districts should protect
25 community interests and it takes local knowledge to

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(Liu - Direct - Dero'Hannesian)

1 identify those interests. And it is again the
2 expertise of those people who know the facts about
3 communities to try to create districts that would

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4 protect a variety of interests.

5 Q And then you mentioned shape, what do you
6 mean? You said shape, was that your word?

7 A Yes.

8 Q what do you mean by shape?

9 A well, I am not a scholar who is
10 specialized on map drawings so I do not have the
11 knowledge of, but I am aware of that the shapes of
12 maps may produce intended and unintended
13 consequences. For that I do not have knowledge.

14 Q And that's the area of expertise of
15 someone who draws maps; correct?

16 A That's not my area.

17 Q For example, someone like William Cooper,
18 that would be his area; correct?

19 MR. LYNCH: Objection.

20 THE COURT: Sustained.

21 BY MR. Dero'HANNESIAN:

22 Q In any event, political scientists such as
23 yourself do not get involved in reviewing the shape
24 as the factor; correct?

25 A Correct.

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(Liu - Direct - Dero'Hannesian)

1 Q With respect to eligibility how does
2 eligibility as you have defined it affect the
3 creation of effective majority minority districts?

4 A Yes, although I do not have local
5 knowledge about racial groups in terms of their

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6 eligibility or their qualification. However,
 7 literature has shown that different racial groups
 8 may face different problems based on the fact that
 9 certain racial groups, especially Latinos are likely
 10 to be immigrants and they face this eligibility
 11 problem. So you need to take consideration of
 12 eligibility.

13 Q Now, speaking of Latinos, by that you mean
 14 Hispanic population?

15 A Yes.

16 Q In your opinion is there -- is it possible
 17 to analyze Hispanic voters in Albany County for the
 18 purpose of creation of effective majority minority
 19 districts?

20 A The answer is no.

21 Q Why is that?

22 A I tried to analyze the voting pattern for
 23 Latinos in Albany, New York. However, my analysis
 24 produced no meaningful results because the size of
 25 Latinos doesn't allow me to do statistical

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(Liu - Direct - Dero'Hannesian)

1 meaningful analysis. And another fact is that
 2 Latinos do not live in one particular area so that
 3 you can use particular statistical procedure such as
 4 homogenous analysis to estimate Latinos' voting
 5 patterns.

6 Q Is it your opinion that there does not
 7 exist statistical information in Albany County to
 8 include Hispanics in determining effective majority

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9 minority districts?

10 A I'm sorry, I need you -- could you repeat
11 that please?

12 Q May I have that read back?

13 THE COURT: Is it your opinion that
14 there is not sufficient statistical information
15 available to include Hispanics or Latinos in
16 analyzing voting patterns in Albany County?

17 A I do not have sufficient statistical data
18 to make any conclusion.

19 Q When you talk about black voters what do
20 you mean? Can you define when you talk about black
21 density or black voters what you mean?

22 A For the purposes of analysis I used voting
23 age population as the variable. I in particular
24 analyzed those people who are non-Hispanic
25 African-Americans.

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(Liu - Direct - Dero'Hannesian)

1 MR. Dero'HANNESIAN: May I have a
2 moment, your Honor.

3 (Pause in proceedings.)

4 BY MR. Dero'HANNESIAN:

5 Q Dr. Liu, is racial polarization in Albany
6 County, based on your training and experience and
7 your analysis of election data, a substantial factor
8 to consider in the occasion of effective majority
9 minority districts?

10 A Yes.

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11 Q Based on your background training and
12 experience, your research across the country as well
13 as your research of election data in Albany data
14 over the last ten years, is voter turnout of black
15 voters and white voters a substantial factor to
16 consider in the occasion of effective majority
17 minority districts?

18 A Yes.

19 Q Have you had an opportunity to review some
20 of the racial density information of the plan
21 offered by the County as a remedial plan?

22 A Yes.

23 Q Have you also had the opportunity to
24 review racial density information of the plaintiffs
25 or the Concerned Citizens of Arbor Hill NAACP plan?

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(Liu - Direct - DerO'Hannesian)

1 A Yes.

2 Q With respect to the county remedial plan,
3 do you have an opinion as to whether or not the
4 election District 2 creates an effective majority
5 minority district?

6 A I think -- let me take it back. I -- my
7 opinion is based on the history that I saw in
8 bi-racial elections and uni-racial elections of
9 Albany, New York. I made my suggestion that in
10 order to provide a reasonable chance to
11 African-American candidate to win an election you
12 need to create a black dominant district. And for
13 that the Local Law E plan 19.16 percent seems to be

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14 low.

15 Q Now, let's talk about District 2. Isn't
16 there indication from -- does it make a difference
17 to legislator MCKnight, she is the incumbent.

18 A It doesn't make a difference what the
19 density would be. My research has shown that white
20 voters are sensitive to the change in racial makeup.
21 And especially my recent article published by Urban
22 Affairs Review discussed incumbent advantages,
23 especially African-American incumbents who run
24 elections in different racial context. My findings
25 showed that when racial makeup changed from black

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(Liu - Direct - Dero'Hannesian)

1 dominant to black-white or white dominant black
2 incumbent advantage tends to be reduced.

3 Q In your review of Local Law E the County
4 remedial plan as well as the plaintiffs' plan or the
5 Arbor Hill NAACP plan, do you have an opinion as to
6 which plan maximized the opportunity to create four
7 effective majority minority districts?

8 A Again, based on the findings with respect
9 to the history of Albany, New York, and my research
10 I think the plaintiffs' revised plan provides a
11 better chance.

12 Q And I would like to briefly review some of
13 the exhibits that we have referred to or not
14 referred to. When you used the number I think it
15 was 49.16 percent was that the number you used in

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16 referring to the county's plan?

17 A Yes.

18 Q What does that refer to?

19 A County legislature District Number 2.

20 Q What is that 19.16 percent?

21 A Percent in DOJ black.

22 Q The Department of Justice denominated
23 black voters; correct?

24 A Uh-huh.

25 Q Now, look at Exhibits 15 and 16. I want

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(Liu -- Direct -- Dero'Hannesian)

1 to identify those; what are those?

2 A 15 and 16?

3 Q Yes.

4 A These are the estimation of racial voting
5 for Board of Education elections.

6 Q Does that reflect data that you analyzed
7 and utilized in performing your opinions today?

8 A Correct.

9 Q And if you look at Exhibits 20 and 21 and
10 22 would you identify each one of those exhibits?

11 A 20, yes.

12 Q 21 and 22?

13 A Yes. After I presented my preliminary
14 report I was asked by counsel to do analysis of
15 turnout. So P 20 is an exhibit which shows turnout
16 rates for non-African-American voters and
17 African-American voters in the 1991 county
18 legislature District 4 primary election.

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19 Q And P. 21?

20 A P. 21 was another election that I was told
21 bi-racial. And I did the analysis for this
22 election, i.e. the 1993 president of common council
23 Democratic primary election after I submitted my
24 preliminary report.

25 Q And that reflects your findings in that

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(Liu - Direct - Dero'Hannesian)

1 race?

2 A Yes, it confirms of my findings.

3 Q And Plaintiffs' 22 for identification?

4 A 22 is a graphic presentation of data with
5 respect to the 1993 president of common council
6 primary election.

7 Q And that also reflects your analysis of
8 that election; correct?

9 A Yes.

10 MR. DERO'HANNESIAN: At this time,
11 your Honor, I would like to offer into evidence
12 Plaintiffs' Exhibits 13 through 22?

13 THE COURT: Any objection.

14 MR. LYNCH: I object to Plaintiff's
15 Exhibits 21 and 22. They speak to racial
16 polarization not turnout and if I understand the
17 Court's ruling earlier they are not relevant to this
18 proceeding.

19 THE COURT: Well, as I said before
20 the matter of degree of voter polarization is.

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21 MR. LYNCH: If they are received for
22 that.

23 THE COURT: All right. Any other
24 objections?

25 MR. LYNCH: No.

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(Liu - Direct - DerO'Hannesian)

1 THE COURT: Plaintiffs' Exhibits 13
2 through 22 will be received into evidence.

3 MR. DerO'HANNESIAN: Nothing else.

4 THE COURT: Mr. Lynch?

5 CROSS-EXAMINATION

6 BY MR. LYNCH:

7 Q Good afternoon, Dr. Liu.

8 A Good afternoon.

9 Q Doctor, you have used the phrase black
10 dominant district in your testimony; can you define
11 that, please?

12 A Yes. I define black dominant district as
13 the district where the racial makeup is in the favor
14 of African-Americans and I particularly use 55
15 percent of the voting age population that is black.
16 That is my strategy.

17 Q So the district that was under 55 percent
18 voting age population for blacks would not be
19 considered a black dominant district?

20 A Yes.

21 Q Now, with respect to creating the new
22 district I believe you testified the point is to
23 make certain that that district has a reasonable

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24 chance that the minority preferred candidate would
25 be elected; is that correct?

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(Liu - Direct - DeRO'Hannesian)

1 A Yes.

2 Q In terms -- you were asked a question
3 specifically about proposed district to in the
4 county remedial plan Local Law E and you referred to
5 a percentage which I understood related to the
6 Department of Justice black, and I believe testimony
7 from you of 49.16 percent; was that correct?

8 A Uh-huh.

9 THE COURT: You have to answer yes
10 or no.

11 A Yes, yes. I'm sorry.

12 Q And I believe you testified that the
13 number seems to be low. Now, in reviewing the
14 effectiveness of the proposed District 2 did you
15 consider the political cohesiveness between the two
16 groups blacks and Hispanics?

17 A May I ask you to repeat?

18 Q Did you consider the political
19 cohesiveness between the two groups blacks and
20 Hispanics?

21 A No.

22 Q Are you familiar with a category for
23 census purposes, that is of the non-Hispanic black
24 plus two?

25 A I am not familiar with that. That is not

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413

(Liu - Direct - Dero'Hannesian)

1 my area.

2 Q You are not familiar. Does it make a
3 difference to you in terms of determining the
4 effectiveness of a district, let's assume that
5 blacks and Hispanics are a politically cohesive
6 group for the purposes of this question. Does it
7 make a difference to you if the category of blacks,
8 the percentage in the district and I am going to
9 speak to District 2, I'm looking at county's Exhibit
10 5 B on the demographics for reference?

11 A I do not have that.

12 Q Let me see. Is that exhibit up at the
13 bench? Let me get it for you, Doctor.

14 A Thanks.

15 Q Doctor, if you look at the exhibit the
16 second column is for District 2 going down along the
17 left-hand margin and if you look in the far right
18 margin you will see a category called total
19 non-Hispanic 18 plus two, and in the exhibit you
20 will see that the percentage for non-Hispanic black
21 plus two is 50.06. You will also see in the exhibit
22 a category that combines Hispanic and non-Hispanic
23 black plus two and that is 9 columns over starting
24 from the left side for District 2. Do you see the
25 percentage number 58.41 percent?

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(Liu - Direct - DeRO'Hannesian)

1 A I saw that.

2 Q I'm sorry, I am going to go over one other
3 column. It's Hispanic plus non-Hispanic black plus
4 two. Do you see the category for 58.93 for District
5 2?

6 A Yes, I saw that.

7 Q Now, for the purposes of this question
8 assume that blacks and Hispanics are a political
9 cohesive group, District 2 is a combined percentage
10 as reflected on this chart of 58.41 percent. Does
11 that change your opinion as to the effectiveness of
12 the county's proposed District 2?

13 MR. DeRO'HANNESIAN: Objection.

14 THE COURT: Overruled.

15 A If I can demonstrate that 58.53 percent
16 among these people we don't have a problem with
17 eligibility problem, registration problem and
18 turnout problem, yes, I would say that will change
19 my opinion.

20 Q And what would your opinion be assuming
21 those?

22 A Assuming, assuming African-American and
23 Latins are cohesive?

24 Q Yes.

25 A This level of density would make me think

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415

(Liu - Direct - DeRO'Hannesian)

1 that it is reasonable to predict that an

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2 African-American candidate can be elected. But you
3 have to make the assumption about the factors that I
4 just mentioned.

5 Q Thank you. Doctor, let me refer you to
6 Plaintiffs' Exhibit 19, do you have that, doctor?

7 A (Nods.)

8 Q Now, in this exhibit and I see you
9 reviewed 1999 primary and general elections for
10 Districts 2, 3 and 5; is that correct?

11 A Yes.

12 Q Are you aware that Districts 2, 3 and 5
13 are the three majority minority districts within the
14 Albany County legislature?

15 A Yes.

16 Q Do you understand that to have been the
17 result of the consent decree back in 1991 requiring
18 the creation of three majority minority districts?

19 A How that took place I wasn't aware of --

20 Q Do you --

21 A -- but I did -- I did know that there was
22 an agreement but I don't know the content.

23 Q Do you know that the consent decree
24 required the creation of three majority minority
25 districts combining blacks and Hispanics to achieve

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(Liu - Direct - DerO'Hannesian)

1 a 63 per total population?

2 A I do not know that.

3 Q If you assume that, let me show you
4 Plaintiffs' Exhibit 5 A?

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5 THE COURT: Plaintiffs' or
6 Defendant's?

7 MR. LYNCH: I'm sorry, excuse me,
8 Defendant's Exhibit 5 A.

9 BY MR. LYNCH:

10 Q Doctor, if you look at the exhibit the
11 third column over the category, excuse me, third
12 column over from the left and look in the category
13 at the top of the document that's Hispanic plus
14 non-Hispanic black plus two; do you find that number
15 or that category?

16 A No.

17 Q Okay. If you count over from the left
18 margin nine categories?

19 A Yes.

20 Q Okay. Do you find it now? Now, if you go
21 down the left hand margin to District 2?

22 A Yes.

23 Q This is the document that provides total
24 population under the County's proposed plan and in
25 the category for Hispanics and non-Hispanic blacks

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(Liu - Direct - Dero'Hannesian)

1 plus two, I would like point out for you that that
2 District 2 total percentage 65.89 percent; do you
3 see that?

4 A Yes.

5 Q For District 3 it is 65.09 percent?

6 A Yes.

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7 Q District 4 it's 67.4 percent?

8 A Yes.

9 Q And District 5 it's 67.07 percent?

10 A Yes.

11 Q Okay. Now, Doctor, I have advised you
12 that the consent decree back in 1991 required the
13 majority minority districts with a total population
14 of 63 percent, and are you aware of the fact that
15 from 1992 through the present that each of the
16 majority minority districts have elected a black
17 candidate; are you aware of that?

18 MR. Dero'HANNESIAN: Objection.

19 THE COURT: Overruled.

20 A Districts 2, 3 and 5?

21 Q 2, 3 and 5, yes.

22 A Yes.

23 Q So in terms of total population would you
24 agree that the proposed districts in the county plan
25 2, 3, 4 and 5 are similar to the districts you

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(Liu - Direct - Dero'Hannesian)

1 reviewed 2, 3 and 5 in 1999?

2 A I do not have an opinion on this because I
3 need to understand the meaning of category.

4 Q I'm sorry?

5 A The meaning of this category.

6 Q I'm sorry?

7 THE COURT: He needs to understand
8 the meaning of category.

9 BY MR. LYNCH:

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- 10 Q Oh, the category, I'm sorry.
- 11 A Yeah. What are these numbers for I don't
- 12 understand the meaning of.
- 13 Q Well, let me see if I can explain this to
- 14 you. The category that I am looking at is a total
- 15 population percentage of minority group at each of
- 16 four districts being proposed as majority minority
- 17 districts. And the category of the group includes
- 18 Hispanics plus all individuals who identified
- 19 themselves in the category of non-Hispanic black
- 20 plus two in the 2000 census. The percentage is a
- 21 total of those categories.
- 22 A Yes, I understand what you said. But I
- 23 still don't understand NHB plus two, because as I
- 24 repeated I am not an expert on demographic.
- 25 Q Let me see if I can just clarify that if I

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(Liu - Direct - Dero'Hannesian)

- 1 may.
- 2 A Okay.
- 3 Q Non-Hispanic black plus two as I
- 4 understand it includes blacks plus blacks and one
- 5 other race and black who identifies himself as --
- 6 himself or herself as including two other races.
- 7 It's a census category that includes black and
- 8 multiple race blacks?
- 9 MR. Dero'HANNESIAN: I object to Mr.
- 10 Lynch testifying.
- 11 THE COURT: I believe you are asking

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12 the witness to assume all this; is that correct?

13 MR. LYNCH: I'm asking the witness

14 to assume all this, yes, yes, I am.

15 THE COURT: Overruled.

16 A Yes.

17 Q In assuming that, Doctor --

18 A Yes.

19 Q -- and considering the combination of the

20 category Hispanic and the non-Hispanic black plus

21 two category, I have just indicated when you look at

22 the percentages here can you agree that from a total

23 population perspective the districts in proposed

24 Local Law E, 2, 3, 4 and 5 are similar to those

25 ruled Districts 2, 3 5 in 1999 in your Exhibit 19?

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(Liu - Direct - Dero'Hannesian)

1 A I can't make that agreement. I do not
2 agree, meaning I -- I have concerns with respect the
3 level that you just indicated. I do not know for
4 sure whether this -- these levels are enough.

5 Q well, for the purposes of this question --

6 A Yes.

7 Q -- the levels that are on the chart I'm
8 asking you to assume those are the total population
9 percentages. And I'm asking you to assume that the
10 consent decree required the County to create three
11 majority minority districts with a combined black
12 and Hispanic population of 63 percent. On that
13 basis can you agree that they are simply total
14 population standpoint?

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